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09/876,943	06/08/2001	Ken Alan Berkun	PU010083	9074
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PERKINS COIE LLP			BENGZON, GREG C	
PATENT-SEA			ART UNIT	PAPER NUMBER
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SEATTLE, WA 98111-1247				

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09876943	6/8/01	BERKUN ET AL.	PU010083

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EXAMINER

Greg Bengzon

ART UNIT

PAPER

2144

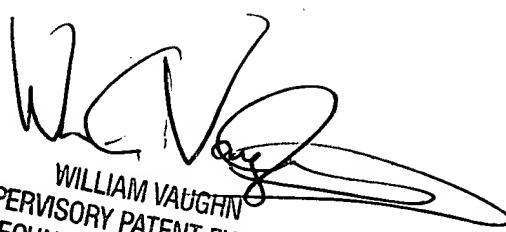
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Commissioner for Patents

The Examiner herein provides a Supplemental Examiner's Answer in consideration of supplemental Appeal Brief filed 07/27/2007,  
as per the BPAI.



WILLIAM VAUGHN  
SUPERVISORY PATENT EXAMINER  
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Art Unit: 2144



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

**MAILED**

**SEP 04 2007**

Application Number: 09/876,943  
Filing Date: June 08, 2001  
Appellant(s): BERKUN ET AL.

**Technology Center 2100**

J. Mason Boswell, Reg. No. 58388  
For Appellant

**SUPPLEMENTAL  
EXAMINER'S ANSWER**

This is in response to the supplemental appeal brief filed 07/27/2007 appealing from the Office action mailed 10/20/2005.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

US Patent 6549922

Srivastava

April 15, 2003

US Patent 6493720

Chu

December 10, 2002

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-17 (as amended) are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 2,3, 9,10,11, 14,15 recite a limitation regarding 'authoritative metadata'.

The Applicant has not provided sufficient guidance on the meaning of 'authoritative metadata' from an 'authoritative source', and the characteristics of said 'authoritative metadata' and 'authoritative source'.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3,5-11, 13-17 rejected under 35 U.S.C. 102(b) as being anticipated by Srivastava et al. (US Patent 654922) hereinafter referred to as Srivastava.

With respect to Claim 1, Srivastava discloses a method for enhancing metadata associated with media on a communications network, said method comprising the steps of: parsing said metadata associated with said media into at least one field of metadata; (Column 1 Lines 40-65,Column 2 Lines 40-65) comparing each of said at least one field of metadata with at least one field of metadata from an authoritative source, each field of metadata compared with each field of authoritative metadata being a compared field;

(Column 5 Lines 1-5) and modifying said metadata if said compared field does not match at least one field of authoritative metadata.(Column 6 Lines 15-20)

With respect to Claim 2, Srivastava discloses a method in accordance with claim 1, wherein said step of modifying said metadata comprise at least one of replacing said compared field with a corresponding field of said authoritative metadata, correcting said compared field in accordance with a corresponding field of said authoritative metadata, and adding at least one field of authoritative metadata to said metadata. (Column1 Lines 40-65, Column 2 Lines 40-65)

With respect to Claim 3, Srivastava discloses a method in accordance with claim 1, wherein said authoritative metadata is obtained from at least one of a multimedia file, a streaming media file, a uniform resource indicator (URI), a database, a media file header, a media file footer, a metatag, and a transport stream (Column 3 Lines 1-10 Column 4 Lines 30-60)

With respect to Claim 5, Srivastava discloses a method in accordance with claim 1, wherein said media comprises at least one of an extension selected from the group consisting of .ram, .rm, .rpm, .mov, .qif.wma, .cmr, .avi, .swf, .swl, .mpg, .mpa, .mp1, .mp2, .mp3, .m3a, and .m3u. (Column 1 Lines 20-50 Column 4 Lines 30-60)

With respect to Claim 6, Srivastava discloses a method in accordance with claim 1, wherein said metadata comprise elements related to at least one of content of the media, intellectual property rights associated with the media, and instantiation of the media.(Column 2 Lines 20-40)

With respect to Claim 7, Srivastava discloses a method in accordance with claim 1, wherein said media comprises at least one of multimedia and streaming media.

(Column 2 Lines 20-40 Column 4 Lines 30-60)

With respect to Claim 8, Srivastava discloses a method in accordance with claim 1, wherein said communications network is a computer network.(Figure 1)

With respect to Claim 9, the applicant discloses a system with the same limitations described in Claim 1. Claim 9 is therefore rejected on the same basis as Claim 1.

With respect to Claim 10, the applicant discloses a program readable medium with the same limitations described in Claim 1. Claim 10 is therefore rejected on the same basis as Claim 1.

With respect to Claim 11, the applicant discloses a data signal with the same limitations described in Claim 1. Claim 11 is therefore rejected on the same basis as Claim 1.

With respect to Claim 13, Srivastava discloses a data signal in accordance with claim 11, wherein said media comprises at least one of an extension selected from the group consisting of .ram, .rm, .rpm, .mov, .qif, .wma, .cmr, .avi, .swf, .swl, .mpg, .mpa, .mp1, .mp2, .mp3, m3a, and .m3u (Column 1 Lines 20-50 Column 4 Lines 30-60)

With respect to Claim 14, Srivastava discloses a data signal in accordance with claim 11, wherein said modify metadata code segment performs at least one of replacing said compared field with a corresponding field of said authoritative metadata,

correcting said compared field in accordance with a corresponding field of said authoritative metadata, and adding at least one field of authoritative metadata to said metadata. (Column 1 Lines 40-65, Column 2 Lines 40-65 Column 5 Lines 1-5 Column 6 Lines 15-20 )

With respect to Claim 15, Srivastava discloses a data signal in accordance with claim 11, wherein said authoritative metadata is obtained from at least one of a multimedia file, a streaming media file, a uniform resource indicator (URI), a database, a media file header, a media file footer, a metatag, and a transport stream. (Column 3 Lines 1-10 Column 4 Lines 30-60)

With respect to Claim 16, Srivastava discloses a data signal in accordance with claim 11, wherein said metadata comprise elements related to at least one of content of the media, intellectual property rights associated with the media, and instantiation of the media. (Column 2 Lines 20-40)

With respect to Claim 17, Srivastava discloses a data signal in accordance with claim 11, wherein said media is at least one of streaming media and multimedia files formatted in at least one of a plurality of formats. (Column 1 Lines 40-60, Column 2 Lines 25-40 Column 4 Lines 30-60)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Srivastava et al. (US Patent 654922) hereinafter referred to as Srivastava, in view of Chu et al. (US Patent 6943720) hereinafter referred to as Chu.

With respect to Claim 4, Srivastava discloses a method in accordance with claim 1, further comprising the steps of: receiving said metadata and corresponding media files, wherein said corresponding media files are formatted in at least one of a plurality of formats; providing media files formatted in the same format and associated metadata to a corresponding format specific metadata extractor; (Figure 1, Column 2 Lines 40-65, Column 4 Lines 30-60, Column 5 Lines 1-5, Column 6 Lines 15-20)

With respect to Claim 12, Srivastava discloses a data signal in accordance with claim 11, further comprising: a receive code segment for receiving said metadata and corresponding media files, wherein said media files are formatted in at least one of a plurality of formats; a distribute code segment for providing media files formatted in the same format and associated metadata to a corresponding format specific metadata extractor;

However, with respect to Claim 4, Srivastava does not disclose determining if a media file is unavailable or corrupt; and if said media file is unavailable or corrupt, performing said step of comparing at a predetermined time in the future. With respect to Claim 12, Srivastava does not disclose a validity code segment for determining if a media file is unavailable or corrupt; and if said media file is unavailable or corrupt, a reschedule code segment for performing said step of comparing at a predetermined time in the future.

Chu discloses (re. Claim 4, 12) a method for a metadata synchronizer wherein, at specified intervals, an object is monitored to identify changes to metadata of that object. The method may be used to check if the URL describing the location of a media file is still working after a certain period of time. (Abstract, Column 7 Lines 35-65)

Srivastava and Chu are analogous art because they present concepts and practices regarding extraction, update and management of metadata associated with media files. At the time of the invention it would have been obvious to a person of ordinary skill in the art to incorporate a monitoring schedule for checking the validity of metadata related to a media file as taught by Chu into the method and system described by Srivastava. The motivation for said combination would have been, as Chu suggests, to allow for situations wherein the system enables users to add or modify metadata for objects in a database. Additionally, some systems may store the metadata for the objects in multiple locations. If the metadata stored at one location

changes, the metadata stored at other locations is no longer in synch. Monitoring the media files for validity results in timely updates to the metadata for the media files before the users can detect the inconsistencies in the system.

#### **(10) Response to Argument**

##### **Rejection Under 35 U.S.C. . 112, Second Paragraph**

The Applicant presents the following argument(s) [*in italics*]:

*The term "authoritative" as used by applicant is a term commonly used by those skilled in the art, and indicates that metadata comes from a source regarded as having a high level of accuracy...The language in the specification cited...is consistent and indicates that metadata from an authoritative source is known to be accurate. Finally, the dictionary meaning cited above provides further support that the term is well defined in the art.*

The Examiner respectfully disagrees with the Applicant. The terms on which the Applicant relies upon to define 'authoritative', namely 'reliable' and 'accurate', are both relative terms. The claims are considered indefinite because they do not indicate sufficient basis for determining what is 'authoritative' and/or 'accurate'.

**Rejections Under 35 U.S.C. 102(b)**

The Applicant presents the following argument(s) [*in italics*]:

*Srivastava teaches neither modifying metadata associated with media at all, nor comparing metadata associated with media with authoritative metadata from an authoritative source or otherwise looking to auxiliary sources of metadata when the metadata is available from the media... Srivastava only discloses gathering metadata associated with media to a centralized source, and only discloses referring to auxiliary sources when the metadata is not available from the media itself.*

The Examiner respectfully disagrees with the Applicant. Srivastava teaches '*modifying metadata associated with media*' (Srivastava-Column 6 Lines 15-20) and '*comparing metadata associated with media with authoritative metadata from an authoritative source*' (Srivastava-Column 5 Lines 1-5) and '*looking to auxiliary sources of metadata when the metadata is available from the media*' (Srivastava-Column 1 Lines 55-66)

With regards to comparing the contents, the Examiner notes that Srivastava disclosed storing the metadata in a database format, such that the data may be accessed or searched using standard query procedures, such as SQL (Structured Query Language) that is common to relational databases. The Examiner suggests that

the process of querying involves indicating a field name and value of the data that is used as an operand in searching the database. Hence the process of querying disclosed the concept of comparing the contents of the metadata.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *looking to auxiliary sources of metadata when the metadata is available from the media*) are not recited in the rejected claim(s). There is nothing in the Claim language that suggests said metadata is available from the [media] file itself.

The Applicant presents the following argument(s) [*in italics*]:

*Srivastava has no teaching of modifying metadata associated with media.*

*Srivastava simply extracts the metadata from the media and stores it in a database.*

The Examiner respectfully disagrees with the Applicant. The Examiner notes Srivastava Column 2 Lines 40-45, which states that 'the present invention provides a framework which may be used to advantage to capture, transform, process, and store metadata.' Srivastava disclosed a transformer module that provides the resulting collected metadata to a formatter, whereupon said formatter converts the collected and

generated metadata into a corresponding database schema. (Srivastava - Column 2 Lines 55-65) The metadata which is stored in the database may then be accessed by application programs in standard ways to perform data management, search, retrieval and playback functions. (Srivastava - Column 2 Lines 5) Furthermore, the client computer 130 may also be used to identify or accept auxiliary metadata which describes the media file being processed, the auxiliary data being accepted as a user keyboard entry or by identifying the URL of Internet data which contains externally located metadata which describes the media file 113 being processed. (Srivastava - Column 3 Lines 5) The user can add attributes to the extracted annotation or change the attribute values. (Srivastava - Column 4 Lines 15-20) The Examiner suggests that the concepts of transforming metadata, generating metadata, formatting metadata, and accepting user input as auxiliary metadata are all indicative of modifying the actual content of the extracted metadata fields.

As the Examiner suggests above, Srivastava has presented several concepts regarding modify the contents of the metadata.

The Applicant presents the following argument(s) [*in italics*]:

*Although Srivastava may also gather metadata from auxiliary sources, it does so only when the metadata is not available from the file itself... In order to be compared,*

*the metadata must always be gathered from two sources. Therefore, Srivastava does not compare metadata fields in the way that applicant's technology describes.*

The Examiner respectfully disagrees with the Applicant. Srivastava disclosed that '*annotations can be overridden or replaced with a completely new set*' (Srivastava-Column 6 Lines 15-20). The Examiner notes that since Srivastava already disclosed obtaining the metadata from the file, Srivastava must be referring to gathering metadata from auxiliary sources and using said auxiliary metadata for overriding and replacing the existing [previously obtained] set.

The Examiner notes that the Claims describe '*metadata associated with media*'. There is nothing in the Claim language that suggests said metadata is available from the [media] file itself.

#### **Rejections Under 35 U.S.C. 103(a)**

The Applicant presents the following argument(s) [*in italics*]:

*'when the prior art teaches away from combining certain elements, discovery of a successful means of combining them is more likely to be nonobvious... it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements'*

The Examiner respectfully disagrees with the a1. Srivastava and Chu do not teach away from one another. Srivastava disclosed a system for metadata management (Srivastava-Column 2 Lines 40-45). Similarly Chu also disclosed a system for metadata management (Chu-Column 3 Lines 40-45) such that metadata monitored for updates.

The Examiner notes that Srivastava disclosed metadata for performing retrieval and playback functions (Srivastava-Column 2 Lines ). At the time of the invention it would have been obvious that maintaining the currency of said metadata would be highly desirable to enable retrieval and playback without interruption, especially where said metadata is used to point to the location of the digital content. Thus Srivastava would have been motivated to look for synchronization mechanisms as taught by Chu.

The Examiner notes there would be no substantial innovation resulting in the combination of Srivastava with Chu because they are readily modified by the other without breaking or teaching away from the invention and because said modifications will produce the same predictable result.

The Applicant presents the following argument(s) [*in italics*]:

*The Examiner relies upon Chu for teaching "determining if a media file is unavailable or corrupt."... Chu does not teach determining if a media file is unavailable or corrupt... The portion of Chu cited by the Examiner discusses a scheduled process within Chu that periodically checks for changes in the metadata of a file, and if the metadata has changed, the process synchronizes the metadata with a central repository of metadata. There is no suggestion in Chu that the metadata or file could be unavailable or corrupt, or of any action to take in response.*

The Examiner respectfully disagrees with the Applicant. Srivastava disclosed wherein the media resource is accessed by using a pointer URL, (Srivastava-Column 8 Lines 45-50), said pointer URL being considered as 'metadata'. Thus, when the pointer URL contains erroneous data, an access request using said URL results in an access error condition with said 'media resource' being described as 'unavailable'. Chu also disclosed using metadata to locate desired information (Chu-Column 4 Lines 10-15). The Examiner notes that at the time of the invention it would have been well-known in the art that given the Srivastava disclosure, when Chu disclosed determining metadata that is out of sync (Chu-Column 1 Lines 55-60) Chu disclosed '*determining if a media file is unavailable or corrupt*' and also disclosed that the sync mechanism is in response to an 'unavailable media' condition.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

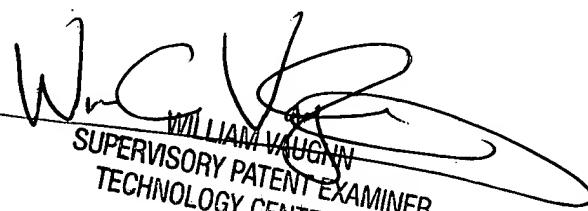
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